

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT, 41
BUREAU COUNTY, STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)
)
Plaintiff,)
)
v.) NO. 78-CH-4
)
GULF and WESTERN INDUSTRIES, INC.)
a Delaware Corporation,)
)
Defendant,)
)
and)
)
THE NEW JERSEY ZINC COMPANY, INC.)
a Delaware Corporation,)
)
Intervenor.)

E.S.
EPA Region 5 Records Ctr.



287465

CONSENT ORDER

Upon the consent of GULF and WESTERN INDUSTRIES, INC., acting herein through its division, G & W Natural Resources Group ("GWI") THE NEW JERSEY ZINC COMPANY, INC., ("NJZ"), and THE PEOPLE OF THE STATE OF ILLINOIS and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("IEPA"), (the People and the IEPA sometimes hereinafter referred to as "Illinois") by TYRONE C. FAHNER, the Attorney General of the State of Illinois,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. This Court has jurisdiction of the subject matter herein and of the parties.
2. The Agreement of GWI, NJZ and Illinois, a copy of which is appended hereto, is incorporated herein and made a part of this Consent Order.
3. The Complaint and Amended Complaint, subject of this action, are dismissed with prejudice.
4. This Order is enforceable by contempt and as otherwise specifically provided in the Agreement.
5. The parties shall bear their own costs and expenses.

CIRCUIT COURT
BUREAU COUNTY
TRUE COPY

OCT 28 1981

CIRCUIT COURT FOR THE
THIRTEENTH JUDICIAL DISTRICT
BUREAU COUNTY, ILLINOIS

Judge

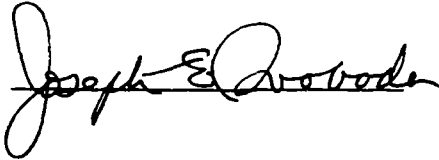
Date:

Tyrone C. Fahner
JUDGE

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

Approved:

Joseph Svoboda
Chief, Enforcement Programs Manager

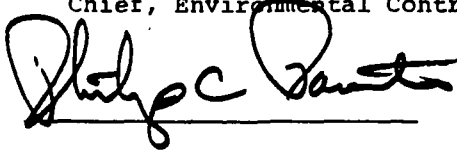


Date 10/28/81

TYRONE C. FAHNER
ATTORNEY GENERAL
STATE OF ILLINOIS

Approved:

Philip C. Parenti
Chief, Environmental Control Division

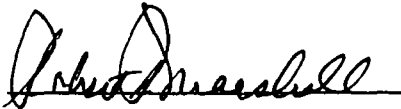


Date 10/29/81

GULF and WESTERN INDUSTRIES, INC.
acting through its division, G & W
Natural Resources Group

Approved:

Robert P. Marshall
Secretary, General Counsel
G & W Natural Resources Group

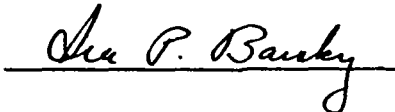


Date 10/26/81

THE NEW JERSEY ZINC COMPANY, INC.

Approved:

Ira P. Barsky
Secretary, The New Jersey Zinc
Company, Inc.



Date 10/28/81

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT,
BUREAU COUNTY, STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)	
)	
Plaintiff,)	
)	
v.)	NO. 78-CH-4
)	
GULF and WESTERN INDUSTRIES, INC.)	
a Delaware Corporation,)	
)	
Defendant,)	
)	
and)	
)	
THE NEW JERSEY ZINC COMPANY, INC.)	
a Delaware Corporation,)	
)	
Intervenor.)	

AGREEMENT

THE PEOPLE OF THE STATE OF ILLINOIS and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("IEPA"), (the People and IEPA sometimes hereinafter referred to as "Illinois"), by TYRONE C. FAHNER, the Attorney General of the State of Illinois, and GULF and WESTERN INDUSTRIES, INC., ("GWI") a Delaware corporation, and THE NEW JERSEY ZINC COMPANY, INC. ("NJZ") a Delaware corporation, agree as follows:

ARTICLE I
MUTUAL REPRESENTATIONS

It is hereby stipulated and agreed by and between Illinois, GWI and NJZ, parties to the above-captioned proceeding, through their respective attorneys, that the above-captioned proceeding, may be settled on the basis hereinafter set forth. This Agreement is effective October 29, 1981.

It is expressly understood and agreed to and between the parties that if this Agreement is not accepted by this Court, the provisions of this Agreement may not be used as an admission or any other type of evidence in any other administrative, civil, or criminal proceeding by any party, by the Court, or by any other person, corporation, or unit or agency of government, or by any multiple or combination thereof.

Firemen's Insurance Company of Newark, New Jersey

20 Maiden Lane, New York, New York 10038

GENERAL POWER OF ATTORNEY

Know all men by these Presents, That the FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY has made, constituted and appointed, and by these presents does make, constitute and appoint

Thomas P. Keating of New York, New York

its true and lawful attorney for it and in its name, place, and stead to execute on behalf of the said Company, as surety, bonds, undertakings and contracts of suretyship to be given to

all obligees

provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of **Unlimited Dollars.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY at a meeting duly called and held on the 20th day of February, 1975.

"RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President or a Senior Vice President or a Vice President of the Company, be, and that each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY, bonds, undertakings and all contracts of suretyship, and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and that each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

FURTHER RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."

In Witness Whereof, the FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY has caused its official seal to be hereunto affixed and these presents to be signed by one of its Vice Presidents and attested by one of its Assistant Vice Presidents this 3rd day of January, 1979

Attest:

FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY

By


T.M. Stephens, Assistant Vice President




M.L. Ford, Vice-President

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss:

On this 3rd day of January, 1979, before me personally came M.L. Ford, to me known, who being by me duly sworn, did depose and say that he resides in Summit, in the County of Essex, State of New Jersey, at 768 Springfield Avenue; that he is a Vice-President of the FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



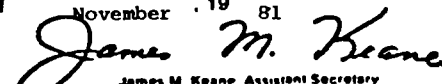
CERTIFICATE


ETHEL TARANTO
NOTARY PUBLIC, State of New York
No 24-4563117 Dual in Kings County
Commission Expires March 30 1982

I, the undersigned, an Assistant Secretary of the FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY, a New Jersey corporation, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed at the City of New York. Dated the 11th day of November, 1981




James M. Keane, Assistant Secretary

Deputy NEW JERSEY ZINC

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT, 41
BUREAU COUNTY, STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)	
)	
Plaintiff,)	
)	
v.)	NO. 78-CH-4
)	
GULF and WESTERN INDUSTRIES, INC.)	
a Delaware Corporation,)	
)	
Defendant,)	
)	
and)	
)	
THE NEW JERSEY ZINC COMPANY, INC.)	
a Delaware Corporation,)	
)	
Intervenor.)	

CONSENT ORDER

Upon the consent of GULF and WESTERN INDUSTRIES, INC., acting herein through its division, G & W Natural Resources Group ("GWI") THE NEW JERSEY ZINC COMPANY, INC., ("NJZ"), and THE PEOPLE OF THE STATE OF ILLINOIS and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("IEPA"), (the People and the IEPA sometimes hereinafter referred to as "Illinois") by TYRONE C. FAHNER, the Attorney General of the State of Illinois,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. This Court has jurisdiction of the subject matter herein and of the parties.
2. The Agreement of GWI, NJZ and Illinois, a copy of which is appended hereto, is incorporated herein and made a part of this Consent Order.
3. The Complaint and Amended Complaint, subject of this action, are dismissed with prejudice.
4. This Order is enforceable by contempt and as otherwise specifically provided in the Agreement.
5. The parties shall bear the own costs and expenses.

CIRCUIT COURT
BUREAU COUNTY
TRUE COPY

OCT 20 1981

Tyrone C. Fahner
JUDGE

CIRCUIT COURT FOR THE
THIRTEENTH JUDICIAL DISTRICT
BUREAU COUNTY, ILLINOIS

Judge
Date:

10-29-81

IN WITNESS WHEREOF, the Company has executed these present
this 11th day of November, 1981.

GULF AND WESTERN INDUSTRIES, INC.,
acting through its division,
G + W NATURAL RESOURCES GROUP

BY: Robert P. Marshall
Robert P. Marshall
Vice President
General Counsel and Secretary

FIREMEN'S INSURANCE COMPANY OF
NEWARK, NEW JERSEY

SURETY BY: Thomas P. Keating
Thomas P. Keating, Attorney

Countersigned by Surety-Illinois
Agent

BY: Robert J. Hughes
Robert J. Hughes

GWJ and NJZ under said Agreement. Should the State or the IEPA decide that grounds exist for the forfeiture of this obligation, the State or IEPA shall promptly notify GWJ and the Surety by Certified Mail at the address below, whereupon GWJ shall, within ten days after receipt of said notice, pay to the State of Illinois through the Environmental Protection Trust Fund Commission or another state environmental protection management fund, as designated at the time of forfeiture, the amount of Two Hundred Twenty-Five Thousand and no/100 (\$225,000) Dollars or its remainder as provided in Paragraph 4 of this bond instrument. Should however GWJ dispute any allegations of forfeiture hereunder by filing, within seven days after receipt of said notice, a Petition for Relief before the Court; any amount to be paid hereunder shall not be due and payable until resolution by the Court of all issues of forfeiture. Any determination by the Court pursuant to this instrument is subject to the right of review thereof as provided by law.

4. Upon receipt of written proof to the IEPA that GWJ and NJZ have faithfully completed all work required under Paragraphs 1, 2, and 3 of Article III of said Agreement, the IEPA upon verification, as provided in the Agreement, of such completed work shall notify GWJ and the Surety within 90 days of verification of such completed work that this Bond may be partially released in the amount of Two Hundred Thousand and no/100 (\$200,000) Dollars. Upon receipt of written proof to the IEPA that GWJ and NJZ have faithfully completed all work required under Paragraphs 5 and 6 of Article III of said Agreement, the IEPA upon verification of such completed work shall notify GWJ and the Surety within 90 days of such verification of completed work that this Bond may be released for the remainder amount of Twenty-Five Thousand and no/100 (\$25,000) Dollars.

5. This Bond fixes a sum to be paid by GWJ without regard to actual damages, if any, by reason of the failure or inability of GWJ and NJZ to comply with the terms and conditions of said Agreement unless covered by Article V, Paragraphs 9, 10, and 11, or Article VIII of said Agreement. It is understood and agreed to by the parties that

Firemen's Insurance Company of Newark, New Jersey

AS OF
DECEMBER 31, 1980

ASSETS		LIABILITIES, CAPITAL & SURPLUS	
Cash	\$ 3,330,255	Reserve for Unearned Premiums ..	\$ 242,582,792
Bonds and Stocks	1,144,009,375	Reserve for Losses	505,205,675
Interest, Dividends & Rent Accrued	11,670,818	Reserve for Loss Expenses	66,762,447
Agents' Balances Receivable	2,087,968	Reserve for Taxes & Expenses	18,118,521
Real Estate	12,693,000	Reserve for Other Liabilities	30,869,988
Other Assets	5,758,497	Total Liabilities	\$ 863,539,421
Total Admitted Assets	\$ 1,000,549,903	Capital	15,000,000
		Surplus	382,010,000
		Policyholders' Surplus	397,010,000
		Total Liabilities, Capital & Surplus ..	\$ 1,260,549,421

STATE OF NEW YORK
COUNTY OF NEW YORK } SS:
CITY OF NEW YORK

F.M. Colalucci, being duly sworn says: That he resides in Glen Head, New York and that he is Vice President and Controller of FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY, that said Company is a Corporation duly organized, existing, and engaged in business as a Surety by virtue of the Laws of the State of New Jersey and has duly complied with all the requirements of the Laws of said State and the Laws of the State of Illinois applicable to said Company, and is duly qualified to act as Surety under such laws; that said Company has also complied with and is duly qualified to act as Surety under the Act of Congress approved July 30, 1947, 6 U.S.C. secs. 6-13 to qualify as sole surety on recognizances, stipulations, Bonds and undertakings permitted or required by the laws of the United States, to be given with one or more sureties; and that the foregoing is a full, true and correct statement of the financial condition of said Company on the 31st day of December 1980 to the best of his knowledge and belief.

Sworn to before me this 11th
day March 1981

Joanne R. McCarthy

Joanne R. McCarthy
A Notary Public of New Jersey
My Commission Expires Feb. 11, 1986



CERTIFICATE

F.M. Colalucci

Vice President and Controller



SURETY KNOWLEDGMENT

State of New York
County of New York
City of New York } SS:

On this 11th day of November, in the year 1981
before me personally came Thomas P. Keating

to me known, who, being by me duly sworn, did depose and say that he resides in New York, New York; that he is the Attorney of Firemen's Insurance Company of Newark, New Jersey, the corporation described in and which executed the attached instrument; that he knows the corporate seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; and that it was so affixed by order of the Board of Directors of the said corporation, and that he signed his name thereto by like order.

Katherine S. Yi
Notary Public

21 BOND 7160

KATHERINE S. YI
Notary Public, State of New York
No. 31-4716763
Qualified in New York County
Commission Expires March 30, 1982

Printed in U.S.A.

RECEIVED
ENFORCEMENT PROGRAMS

STATE OF ILLINOIS)
) SS.
COUNTY OF BUREAU)

Environmental Protection Agency

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL COURT,
BUREAU COUNTY, STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
v.)	NO. 78-CH-4
)	Performance Bond
GULF and WESTERN INDUSTRIES, INC.,)	
a Delaware Corporation,)	NO. <u>BND 217 71 20-471</u>
)	
Defendant,)	
)	
and)	
)	
THE NEW JERSEY ZINC COMPANY, INC.,)	
a Delaware Corporation,)	
)	
Intervenor.)	

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that GULF and WESTERN INDUSTRIES, INC., a corporation organized under the Laws of the State of Delaware, (hereinafter called "GWI") as principal, and Firemen's Insurance Company, Newark, New Jersey, as surety, are held and firmly bound unto the People of the State of Illinois, as represented by the Illinois Environmental Protection Agency, (hereinafter called "IEPA") as obligee, in the sum of Two Hundred Twenty-Five Thousand and no/100 (\$225,000) Dollars for the payment of which sum well and truly to be made, GWI and Firemen's Insurance Company of Newark, New Jersey, jointly and severally bind themselves, their heirs, and administrators, executors, successors and assigns.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, an Agreement has heretofore been entered by the Circuit Court for the Thirteenth Judicial Circuit in Bureau County, Illinois (hereinafter called "Court") on October 29, 1981 in the cause entitled PEOPLE OF THE STATE OF ILLINOIS VERSUS GULF AND WESTERN INDUSTRIES, INC. Docket No. 78-CH-4, directing GWI and THE NEW JERSEY ZINC COMPANY, INC. (NJZ) in Article III of said Agreement to carry out the actions described in said Article at the property known as New Jersey Zinc located in or near the Village of De Pue, Illinois as described in Article II, Paragraph 1 (hereinafter called "site"), in

this Bond is not an undertaking to indemnify the State or the IEPA for actual damages, if any, as may be sustained by the State or IEPA by reason of the failure or inability of GWI and NJZ to comply with said Agreement.

6. The parties expressly agree and understand that in the event of forfeiture by GWI, any monies paid to the State of Illinois are for the purpose of completing the agreed-to program as set forth in said Agreement, except as otherwise provided by Court Order. Any monies paid to the State or Illinois under these forfeiture provisions will be returned to GWI or its Surety upon compliance with the Agreement to program as described in said Agreement.

7. If no claim, suit, or action has been brought on this bond after May 1, 1987, all such actions shall be barred. Provided however, that if the Agreement is extended by modification of said Agreement pursuant to Article V, Paragraphs 9, 10, and 11, or Article VIII of said Agreement, the limitation of this Paragraph shall be deemed to be amended to equal the extension of said Agreement.

8. Notice to the State or to the IEPA shall be to both:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Enforcement Programs
2200 Church Road
Springfield, Illinois 62706

Illinois Environmental Protection Agency
Division of Water Pollution Control
Field Operations Section, Region I
4302 North Main Street
Rockford, Illinois 61103

9. Notice to the Company shall be sent to:

G&W Natural Resources Group
One Commerce Place
Nashville, Tennessee 37239
Attention: Bruce R. Granoff, Environmental Counsel

10. Notice to the Surety shall be sent to:

Fidelity Insurance Company
of New York, New Jersey
80 Madison Lane
New York, New York 10038

this Bond is not an undertaking to indemnify the State or the IEPA for actual damages, if any, as may be sustained by the State or the IEPA by reason of the failure or inability of GWI and NJZ to comply with said Agreement.

6. The parties expressly agree and understand that in the event of forfeiture by GWI, any monies paid to the State of Illinois are for the purpose of completing the agreed-to program as set forth in said Agreement, except as otherwise provided by Court Order. Any monies paid to the State or Illinois under these forfeiture provisions will be returned to GWI or its Surety upon compliance with the Agree-to program as described in said Agreement.

7. If no claim, suit, or action has been brought on this bond after May 1, 1987, all such actions shall be barred. Provided however, that if the Agreement is extended by modification of said Agreement pursuant to Article V, Paragraphs 9, 10, and 11, or Article VIII of said Agreement, the limitation of this Paragraph shall be deemed to be amended to equal the extension of said Agreement.

8. Notice to the State or to the IEPA shall be to both:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Enforcement Programs
2200 Churchill Road
Springfield, Illinois 62706

Illinois Environmental Protection Agency
Division of Water Pollution Control
Field Operations Section, Region I
4302 North Main Street
Rockford, Illinois 61103

9. Notice to the Company shall be sent to:

G&W Natural Resources Group
One Commerce Place
Nashville, Tennessee 37239
Attention: Bruce R. Granoff, Environmental Counsel

10. Notice to the Surety shall be sent to:

relation to specific site areas described in Article II, Paragraph 4 as "the pile", "the ditch", and "the ridges", and as scheduled in Article V of said Agreement.

WHEREAS, said Agreement directs GWI and NJZ in Article III, Paragraphs 5 and 6 to begin specific monitoring, sampling, maintenance, and remedial work necessary at the site upon the completion of work described in Article III, Paragraphs 1, 2, and 3 as scheduled in Article V of said Agreement.

WHEREAS, said construction and monitoring program shall be completed within 5 years of the Court Order, or as modified pursuant to Article V, Paragraphs 9, 10, and 11, and Article VIII in said Agreement.

WHEREAS, said Agreement in Article IV directs GWI to post a bond in the amount of Two Hundred Twenty-Five Thousand and no/100 (\$225,000) Dollars to insure the compliance with the conditions of said Agreement.

WHEREAS, said Agreement in Article V more specifically directs GWI to post the bond as described above, within one month of the effective date of the Court Order (October 29, 1981).

THEREFORE:

1. If GWI, its successors or assigns, or NJZ fails to comply with the terms and conditions of the Agreement, then this Bond shall be deemed to be forfeited.

2. The failure of GWI or NJZ to comply with any terms of this Bond or said Agreement shall not result in forfeiture if occasioned by Acts of God or the public enemy, expropriation or confiscation of facilities, fire, explosion, flood, tornado, earthquake, lightening, riot, sabotage, war, labor strike as provided for by Article V, Paragraph 10 or Article V, Paragraphs 9 or 11 or Article VIII of said Agreement.

3. Proceedings to declare forfeiture under this Bond may be instituted at any time, but in no event later than 180 days after written notice has been sent by GWI, via Certified Mail to the IEPA at the address below, describing the completion of all of the obligations of

relation to specific site areas described in Article II, Paragraph 4 as "the pile", "the ditch", and "the ridges", and as scheduled in Article V of said Agreement.

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IN WITNESS WHEREOF, the Company has executed these present
this _____ day of _____, 1981.

GULF AND WESTERN INDUSTRIES, INC.

BY: _____

GULF AND WESTERN INDUSTRIES, INC.

BY: _____ (Surety)

Countersigned by:

BY: _____ (Surety - Illinois Agent)

EXHIBIT B

ADDRESSES FOR SUBMITTALS
TO PARTIES

IEPA/Mines Pollution Control Program
2200 Churchill Road
Springfield, Illinois 62706
Attention: Harry Chappel, Permit Engineer

IEPA/DWPC Field Operations Section, Region I
4302 North Main Street
Rockford, Illinois 61103
Attention: Harris Chien, Manager

IEPA/DWPC
2200 Churchill Road
Springfield, Illinois 62706
Attention: Yogish Sheth, Permit Engineer

G&W Natural Resources Group
One Commerce Place
Nashville, Tennessee 37239
Attention: Bruce R. Granoff, Environmental Counsel

The New Jersey Zinc Company, Inc.
2 University Plaza, Suite 500
Hackensack, New Jersey 07601
Attention: Ira P. Barsky, Secretary

GWI and NJZ under said Agreement. Should the State or the IEPA decide that grounds exist for the forfeiture of this obligation, the State or IEPA shall promptly notify GWI and the Surety by Certified Mail at the address below, whereupon GWI shall, within ten days after receipt of said notice, pay to the State of Illinois through the Environmental Protection Trust Fund Commission or another state environmental protection management fund, as designated at the time of forfeiture, the amount of Two Hundred Twenty-Five Thousand and no/100 (\$225,000) Dollars or its remainder as provided in Paragraph 4 of this bond instrument. Should however GWI dispute any allegations of forfeiture hereunder by filing, within seven days after receipt of said notice, a Petition for Relief before the Court; any amount to be paid hereunder shall not be due and payable until resolution by the Court of all issues of forfeiture. Any determination by the Court pursuant to this instrument is subject to the right of review thereof as provided by law.

4. Upon receipt of written proof to the IEPA that GWI and NJZ have faithfully completed all work required under Paragraphs 1, 2, and 3 of Article III of said Agreement, the IEPA upon verification, as provided in the Agreement, of such completed work shall notify GWI and the Surety within 90 days of verification of such completed work that this Bond may be partially released in the amount of Two Hundred Thousand and no/100 (\$200,000) Dollars. Upon receipt of written proof to the IEPA that GWI and NJZ have faithfully completed all work required under Paragraphs 5 and 6 of Article III of said Agreement, the IEPA upon verification of such completed work shall notify GWI and the Surety within 90 days of such verification of completed work that this Bond may be released for the remainder amount of Twenty-Five Thousand and no/100 (\$25,000) Dollars.

5. This Bond fixes a sum to be paid by GWI without regard to actual damages, if any, by reason of the failure or inability of GWI and NJZ to comply with the terms and conditions of said Agreement unless covered by Article V, Paragraphs 9, 10, and 11, or Article VIII of said Agreement. It is understood and agreed to by the parties that

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: Joseph Svoboda, Manager
Enforcement Programs

Joseph E. Svoboda
(Signature)

10/28/81
(Dated)

TYRONE C. FAHNER
Attorney General
State of Illinois

BY: Philip C. Parenti
Assistant Illinois
Attorney General
Chief, Environmental
Control Division

Philip C. Parenti
(Signature)

10/29/81
(Dated)

THE NEW JERSEY ZINC COMPANY, INC.

BY: Ira P. Barsky, Secretary
The New Jersey Zinc
Company, Inc.

Ira P. Barsky
(Signature)

10/28/81
(Dated)

GULF and WESTERN INDUSTRIES,
INC., acting through its
division, G & W Natural
Resources Group

BY: Robert P. Marshall, Secretary,
General Counsel - G & W
Natural Resources Group

Robert P. Marshall
(Signature)

10/28/81
(Dated)

STATE OF ILLINOIS)
) SS.
COUNTY OF BUREAU)

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL COURT,
BUREAU COUNTY, STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
v.)	NO. 78-CH-4
)	Performance Bond
GULF and WESTERN INDUSTRIES, INC.,)	
a Delaware Corporation,)	NO. _____
)	
Defendant,)	
)	
and)	
)	
THE NEW JERSEY ZINC COMPANY, INC.,)	
a Delaware Corporation,)	
)	
Intervenor.)	

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that GULF and WESTERN INDUSTRIES, INC., a corporation organized under the Laws of the State of Delaware, (hereinafter called "GWI") as principal, and _____, as surety, are held and firmly bound unto the People of the State of Illinois, as represented by the Illinois Environmental Protection Agency, (hereinafter called "IEPA") as obligee, in the sum of Two Hundred Twenty-Five Thousand and no/100 (\$225,000) Dollars for the payment of which sum well and truly to be made, GWI and _____, jointly and severally bind themselves, their heirs, and administrators, executors, successors and assigns.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, an Agreement has heretofore been entered by the Circuit Court for the Thirteenth Judicial Circuit in Bureau County, Illinois (hereinafter called "Court") on _____ in the cause entitled PEOPLE OF THE STATE OF ILLINOIS VERSUS GULF AND WESTERN INDUSTRIES, INC. Docket No. 78-CH-4, directing GWI and THE NEW JERSEY ZINC COMPANY, INC. (NJZ) in Article III of said Agreement to carry out the actions described in said Article at the property known as New Jersey Zinc located in or near the Village of De Pue, Illinois as described in Article II, Paragraph 1 (hereinafter called "site"), in

taminants specified under Water Rule 408(a), under which the ditch or the storm water conveyance at the site will not be subject to Water Rule 408(a) effluent limitations for a 5-year period, and a final NPDES Permit condition which requires compliance with the Act, and all Water Rule Chapter 3 standards.

2. During the 5 year period of this Agreement or as extended under Article V, Paragraphs 9, 10 and 11, or Article VIII, Illinois will not institute enforcement action against GWI or NJZ for any violations of the effluent regulations and/or corresponding violations of the Act in connection with the ridges, the ditch or the pile so long as GWI and NJZ are in compliance with the required actions of this Agreement.

3. GWI and NJZ will provide to Illinois a verified water quality study within 15 months of EDO for use by IEPA, GWI and NJZ in establishing a water quality level for Lake De Pue for the remainder of this Agreement (Agreement Level). No study shall be commenced until a proposal for study using standard methods shall be agreed on between IEPA, GWI and NJZ.

4. During the 5 year period of this Agreement or as extended under Article V, Paragraphs 9, 10 and 11 or Article VIII for zinc, cadmium, copper, iron, lead, manganese and total suspended solids, Illinois will only enforce against GWI or NJZ in the event that water quality violations in Lake De Pue for said parameters exceed the Agreement Level, are caused or contributed to by GWI or NJZ, and could not have been reasonably foreseen in the plans and work approved by IEPA under this Agreement.

ARTICLE VII DEFAULT

1. Should GWI and NJZ fail to comply with any provision of this Agreement in a manner not provided for in Article V, Paragraphs 9, 10, and 11, Illinois may exercise its right to the Performance Bond as provided under Article IV.

STATE OF ILLINOIS)
) SS.
COUNTY OF BUREAU)

EXHIBIT A

IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT,
BUREAU COUNTY, STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
) Plaintiff,)
)
 v.) NO. 78-CH-4
)
 GULF AND WESTERN INDUSTRIES, INC.,)
 a Delaware Corporation,)
)
 and) Defendant,)
)
 THE NEW JERSEY ZINC COMPANY, INC.,)
 a Delaware Corporation,)
)
 Intervenor.)

ENTRY OF APPEARANCE

NOW COMES The New Jersey Zinc Company, Inc. (NJZ) a Delaware corporation and enters its appearance in this cause and states as follows:

1. NJZ has an interest in the instant litigation in that NJZ became the owner of the property involved in this cause on September 30, 1981.

2. NJZ consents to the jurisdiction of this court to enter the Consent Order pursuant to the Agreement between NJZ, Gulf and Western Industries, Inc., acting through its division, G&W Natural Resources Group and the State of Illinois, said Agreement effective October 29, 1981.

THE NEW JERSEY ZINC COMPANY, INC.

Martha Skorkin
NOTARY

BY: Ira P. Barsky
IRA P. BARSKY
Secretary
The New Jersey Zinc Company, Inc.

MARTHA SKORKIN, Notary Public
Falmouth, Me. Pa.
COMES TO EXPIRE Oct 10 1982

4. GWI and NJZ shall complete the work set out in Article III, Paragraph 1 no later than September 1, 1982 and shall complete the work set out in Article III, Paragraph 2 no later than December 1, 1982.

5. GWI and NJZ shall submit the engineering plans and other information which require IEPA approval for Article III, Paragraph 3(c) within 12 months of EDO.

6. GWI and NJZ shall complete all work set out in Article III, Paragraph 3 by September 1, 1984; said work to be performed in two stages, approximately half of the pile area shall be completed by September 1, 1983 and the remaining pile area shall be completed by September 1, 1984.

7. GWI and NJZ shall perform the work and sampling set out in Article III, Paragraphs 5 and 6 until five years from EDO; provided however that if the completion dates set out in Paragraphs 4 and 6 of this Article are extended, GWI and NJZ shall perform the work and sampling set out in Article III, Paragraphs 5 and 6, for 24 months from the completion of all of the work set out in Paragraphs 1, 2 and 3 of Article III.

8. Inspection and Reporting.

a. IEPA may conduct semi-annual inspection of the site in the spring and fall for 60 months from EDO or until 24 months after the final work on Article III, Paragraphs 1, 2 and 3 is completed. IEPA may conduct additional inspections as necessary, provided that all such inspections shall be at reasonable times.

b. GWI and NJZ shall submit to IEPA/DWPC FOS Region I, quarterly progress reports on the work completed for Article III, Paragraphs 1, 2, 3, and 5 commencing within three months of EDO.

c. GWI and NJZ shall submit to IEPA/DWPC FOS Region I, quarterly reports of the monitoring data as required in Article III, Paragraph 6.

2. Should GWI and NJZ fail to comply with any provisions of this Agreement in a manner not provided for in Article V, Paragraphs 9, 10, and 11, Illinois may enforce compliance with any term or provisions of the Agreement by a contempt action or as otherwise provided by law as well as receiving payment of the Performance Bond under Article 7.

ARTICLE VIII
MODIFICATION

1. This Agreement may be modified by the Court after review of a joint motion and stipulation filed by the parties which motion shall set forth explicitly all terms to be modified and each party's agreement to said modification.

2. Any party seeking to modify this Agreement, and a Stipulation for modification between the parties not having been reached after a reasonable period of time for negotiation, may apply to this Court for the limited purpose of obtaining a ruling on the proposed modification.

ARTICLE IX
DISMISSAL

Upon acceptance and approval of this Agreement by the Court, this Agreement may be incorporated into a Consent Order under which this cause is dismissed with prejudice.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

-within one month of completion of work on each of Paragraphs 1 and 2 of this Article and semi-annually for two years after completion of all work on Paragraphs 1, 2 and 3, at Points I, II and III with an analysis for barium, chromium (total hexavalent and trivalent), mercury, nickel, selenium, and silver.

c. Sampling shall be by grab samples.

d. GWI and NJZ shall install a flow device to monitor the flow in the storm water conveyance at Point II and Point III.

ARTICLE IV PERFORMANCE BOND

1. GWI shall post a performance bond of \$225,000 (Two Hundred and Twenty-Five Thousand and no/100 Dollars). The form of said Bond shall as be attached to this Agreement in Exhibit C and incorporated herein.

2. GWI shall forfeit to the State of Illinois said Bond in the amount of \$225,000 (Two Hundred and Twenty-Five Thousand and no/100 Dollars), or its remainder as provided in Paragraph 6 of this Article, in the event that GWI and NJZ should fail to substantially comply with the schedule provided in Article V, or to comply with any of the required actions of this Agreement or any approved plans provided for under this Agreement or any condition of the Bond as attached to this Agreement.

3. This performance bond is not an undertaking to indemnify the State or IEPA for actual damages as may be sustained by the State or IEPA by reason of the failure or inability of GWI and NJZ to comply with the required actions of this Agreement. This Bond fixes a sum to be paid by GWI without regard to actual damages, if any, by reasons of the failure or inability of GWI and NJZ to comply with the required actions of this Agreement.

4. In the event of forfeiture by GWI, any monies paid to Illinois are for the purpose of completing the agreed program set out in this Agreement, except as otherwise provided by Court Order.

9. The dates of this Article may be extended for less than 90 days by agreement of GWI, NJZ and IEPA if any event occurs beyond the control of GWI and NJZ, which causes or may cause a delay in complying with the dates in Paragraphs 3, 4, 5, 6 or 7 of this Article; provided however, that GWI or NJZ shall notify IEPA/DWPC FOS, Region I, in writing of the delay or anticipated delay as soon as it has knowledge thereof, the anticipated length of the delay, the cause of the delay, and the measures being taken or to be taken to minimize the delay. After said notification, IEPA and GWI or NJZ shall confer regarding the event and determine whether the compliance schedule set forth in Paragraphs 3, 4, 5, 6 or 7 of this Article shall be extended. Extensions under this Paragraph shall not result in Article III, Paragraphs 1, 2, 3, 4 or 5 being completed more than 90 days beyond the dates specified in this Article.

10. The dates of this Article may be extended beyond 90 days by Court Order only if the failure of GWI and NJZ to meet said dates is caused by Acts of God or the public enemy, expropriation or confiscation of facilities, fire, explosion, flood, tornado, earthquake, lightening, riot, sabotage, war, or labor strike. GWI and NJZ shall have the burden of establishing that such event did occur and that an extension of the compliance dates is necessary. Extensions under this Paragraph shall be no greater than equal to the time of delay caused by said event.

11. In the event that IEPA does not act on completed applications and plans within 90 days of submission, the dates of this Article shall be extended one day for each day beyond 90 days in which IEPA does not act. GWI and NJZ waive their right to have an approval of permit applications by operation of statute because of but only to the extent of such time delay.

ARTICLE VI
NPDES PERMIT, EFFLUENT AND WATER QUALITY DURING 5 YEAR AGREEMENT

1. Any NPDES Permit for the ditch or the storm water conveyance at the site, issued pursuant to NJZ's application for same provided for in this Agreement, shall provide interim limitations for those con-

ending at a point south of the pile, where the existing drain under Marquette Street begins. Said conveyance shall be approximately 1,000 feet long, shall be of a size compatible with the existing Marquette Street drain, shall have a tight and fast connection to the Marquette Street drain, shall follow the appropriate course of the present ditch and shall have an appropriate mesh screen at the entrance to prevent infiltration of trash and other debris.

b. GWI and NJZ shall fill in the present ditch with soil, clay and calcareous materials so as to assure an impervious barrier between leachate from the pile and the storm water conveyance.

c. Construction permit applications and plans for said actions shall be submitted to IEPA/DWPC Permits Section and IEPA/DWPC FOS, Region I for review and approval 90 days prior to commencing construction. Work shall not begin without written IEPA approval of permit applications and plans.

3. Actions to be Taken on the Pile.

a. GWI and NJZ shall engineer and execute a cover for the top area of the pile so that runoff from the top of the pile is directed and discharged through one discharge conveyance. Said cover shall consist of approximately 24 inches of a loamy earth, indigenous to the site, capable of supporting vegetation, conditioned with hydrated lime and suitably fertilized to support vegetative growth. The cover shall be vegetated with suitable grasses and legumes.

b. GWI and NJZ shall engineer and install a permanent conveyance constructed of an impervious material to direct the runoff from the top of the pile into the storm water conveyance.

c. Plans for said actions shall be submitted to IEPA/MPCP and IEPA/DWPC FOS, Region I for review and approval prior to commencing work. Work shall not begin without written IEPA approval of said plans.